

Vermont State Hospital Policy			C6
Mandatory Reporting Policy			
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Approved by the Commissioner of the Department of Mental Health:			Date: 1/20/10

Policy Statement:

The Vermont State Hospital will provide treatment to all patients in a safe environment. The hospital and the professional staff have a responsibility and duty to protect the safety of all patients and others as part of the clinical care offered during hospitalization. The Vermont State Hospital will not tolerate abuse, neglect or exploitation of any patient by any person and every incident of suspected mistreatment will be reported as required by State and Federal law. VSH will not retaliate against any person for making a good faith report of patient mistreatment.

Purpose:

- I. To ensure a safe and secure patient treatment environment.
- II. To ensure compliance with State and Federal mandated reporting requirements.
- III. To ensure appropriate documentation of significant events.

Relevant Law:

33 VSA §6901 et. seq. (*Reports of Abuse, Neglect and Exploitation of Vulnerable Adults*)
42 CFR 482.13 (*CMS Regulations*),

Procedures:

I. Reports of abuse, neglect or exploitation

a. What to report:

- i. Any person, including any employee, volunteer or consultant/contractor of the state hospital, who knows of or has received information of or has reason to suspect that any patient has been abused, neglected or exploited by any person shall ensure that a report is filed with Adult Protective Services (APS) as soon as possible and within 48 hours as described in section (b) below. When a report is made to APS, you must notify the VSH Executive Director or designee, and the Director of Nursing or designee. For assistance with notification, contact Admissions.
- ii. If the alleged perpetrator of the suspected abuse is either the Director of Nursing or the Executive Director, the information shall immediately be provided to the Commissioner of Mental Health or designee. The Commissioner or designee shall determine whether an incident sufficiently gives rise to a suspicion of abuse, neglect or exploitation of a vulnerable adult. If the Commissioner or designee determines that the facts support a suspicion of abuse, neglect or exploitation he or she shall ensure that a report is filed with Adult Protective Services as soon as possible and within 48 hours as described in section (b) below. In such a case, the Commissioner or designee shall immediately take whatever other steps are necessary to ensure the safety of patients.

b. **How to report:**

- i. **Report all suspected abuse to Adult Protective Services as soon as possible and within 48 hours.** The report shall first be made to Adult Protective Services (APS) in the Division of Licensing and Protection of the Department of Aging and Independent Living, phone number: 1-800-564-1612, fax number: 802-241-2358. Reports may be made on forms provided by APS or otherwise in writing. The report shall contain the names and addresses of the reporter as well as the names and addresses of the patient, the age of the patient, the nature of his or her illness, the nature and extent of the patient's abuse, neglect or exploitation together with any other information that the reporter believes may be helpful in establishing the cause of any injuries or reasons for the abuse, neglect or exploitation as well as information that may be helpful in protecting the patient from further abuse.
- ii. **Cooperation with Adult Protective Services.** All staff, volunteer and consultants/contractors shall cooperate as necessary with Adult Protective Services officials or other appropriate officials, including law enforcement, relating to any investigations of patient mistreatment.
- iii. **Notification of the report.** If the report is not made by the Executive Director or the Director of Nursing or their designee, the reporter shall ensure the Director of Nursing and the Executive Director or their designees are immediately provided with copies of the report. The reporter may contact the Admissions Office if he or she needs assistance contacting the Executive Director or the Director of Nursing. The reporter shall also ensure that an adverse event report relating to the suspected abuse is made in the VSH event reporting system as indicated in the ***VSH Event reporting Protocol***.
- iv. **Immunity from liability for reporting.** Any person who in good faith makes a report of suspected abuse, neglect or exploitation of a patient at VSH shall be immune from any liability, civil or criminal, for making the good faith report. No employer or supervisor may discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work evaluation or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this policy, by reason of the report. In addition, no individual, patient, family member or visitor shall be subject to any form of retaliation for making a good faith report of abuse, neglect or exploitation.
- v. **Failure to report.** Any VSH employee that fails to report or delays in reporting any suspected abuse, neglect or exploitation shall be subject to disciplinary action.

c. **Notice of the VSH Mandatory Reporting Policy:**

- i. **VSH Employees:** All VSH employees must sign a statement that indicates that they have read, understand and agree to follow the VSH Mandatory Reporting policy. The statement shall be kept in each employee's personnel file.
- ii. **Volunteers and Consultants/Contractors:** Prior to providing any volunteer or contractual services that may involve any patient contact, all volunteer and contractors

must sign a statement indicating that they have read, understand and agree to follow the VSH Mandatory Reporting policy.

d. Definitions:

i. Abuse means:

1. Any treatment of a patient which places life, health or welfare in jeopardy or which is likely to result in impairment of health;
2. Any conduct committed with an intent or reckless disregard that such conduct is likely to cause unnecessary harm, unnecessary pain or unnecessary suffering to a patient;
3. Unnecessary or unlawful confinement or unnecessary or unlawful restraint of a patient;
4. Any sexual activity with a patient by a staff member, volunteer, consultant/contractor;
5. Intentionally subjecting a patient to behavior which should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress; or
6. Administration, or threatened administration, of a drug, substance, or preparation to a patient for a purpose other than legitimate and lawful medical or therapeutic treatment.

ii. Neglect means purposeful or reckless failure or omission by a staff member to:

1. Provide care or arrange for goods or services necessary to maintain the health or safety of a patient, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, unless the staff member is acting pursuant to the wishes of the patient or his or her representative, or a properly executed terminal care document;
2. Make a reasonable effort, in accordance with the authority granted the staff member, to protect a patient from abuse, neglect or exploitation by others;
3. Carry out a plan of care for a patient when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the patient, unless the staff member is acting pursuant to the wishes of the patient or his or her representative, or a properly executed terminal care document;
4. Report significant changes in the health status of a patient to a physician, nurse, or immediate supervisor; or
5. Neglect may be repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm as a result of 1-3 above.

iii. Exploitation means:

1. Willfully using, withholding, transferring or disposing of funds or property of a patient without or in excess of legal authority for the wrongful profit or advantage of another;
2. Acquiring possession or control of or an interest in funds or property of a patient through the use of undue influence, harassment, duress, or fraud;

3. The act of forcing or compelling a patient against his or her will to perform services for the profit or advantage of another;
4. Any sexual activity with a patient when the patient does not consent or when the perpetrator knows or should know that the patient is incapable of resisting or declining consent to the sexual activity due to age or disability or due to fear of retribution or hardship, whether or not the perpetrator has actual knowledge of vulnerable status;
5. Unnecessary, unlawful or excessive confinement or restraint of a patient; or
6. Administration, or threatened administration, of a drug, substance, or preparation to a patient for a purpose other than legitimate and lawful medical or therapeutic treatment.

II. Internal Response

- a. **Director of Nursing responsibility:** Immediately upon making a report or upon receiving notice that a report of abuse, neglect or exploitation has been filed with Adult Protective Services (APS), the Director of Nursing or designee shall take the following steps:
 - i. **Patient safety.** Evaluate the safety of the patient who is the subject of the report and take action as necessary to protect the patient from harm.
 - ii. **Physician exam.** When indicated, arrange for a physician to examine and assess the patient that may have been victim of mistreatment for any impact of the suspected mistreatment. The physician shall prepare a written statement of findings and include a copy of the report in the patient chart;
 - iii. **Remove/reassign staff.** Consult with the Executive Director or designee regarding the need to immediately remove or reassign staff.
 - iv. **File copies of report.** Provide a copy of the report to the Quality and Risk Management Chief, the Quality Manager for Clinical Services and the Medical Director. The Director of Nursing shall also be responsible for ensuring that a copy of the report is included in the patient's record including any subsequent information on the disposition of the report.
- b. **Executive Director responsibility** As soon as possible after making a report or receiving notice that a report of abuse, neglect or exploitation has been made, the Executive Director or his/her designee shall:
 - i. **Patient safety.** Evaluate the safety of the patient who is the subject of the report and take action as necessary to protect the patient from harm.
 - ii. **Determine whether there is reason to believe that a criminal act occurred:** If the Executive Director or designee determines that there is any reason to believe that a criminal act has occurred, he or she shall:
 1. Ensure that the scene of event has been secured until the full investigation is initiated. Securing the scene shall include, but is not limited to:

- a. safeguarding all potential evidence from possible contamination;
 - b. responding to any issues that may involve blood born pathogens;
 - c. securing relevant documentation; and
 - d. referral of patients involved in allegations of sexual abuse or sexual assault to off-campus emergency room for examination.
 2. Suspend any responsible employee(s) from duty with pay pending completion of the investigation in accordance with personnel procedures
 3. Notify the Division of Licensing and Protection, State Police, Attorney General's Office or any other responsible outside investigative body;
 4. Report any alleged criminal incidents to the Commissioner of Health.
- iii. **Remove/reassign staff.** After consultation with the Director of Nursing or designee and based on an assessment that the allegation may have merit, temporarily remove/reassign any staff involved in any allegation from contact with the patient that may have been the victim of mistreatment until the investigation by APS has concluded; and
- iv. **Other disciplinary action.** Determine whether other disciplinary action is warranted and proceed pursuant to personnel procedures

c. **Systems Review and Response:**

- i. **Track status of all reports of abuse.** After receiving a copy of a report of suspected abuse, neglect or exploitation, the director of nursing and executive director or their designees will track the status of the investigation and disposition of the report and maintain documentation relative to each report.
- ii. **Convene a peer review committee to review all substantiated reports.** Whenever a report of abuse, neglect or exploitation is determined by APS to be substantiated, the executive director and the director of quality management or their designees shall convene a committee, including staff with knowledge of the incident, to:
 1. Review all of the information available related to the incident of abuse, neglect or exploitation, including reports, statements and other evidence;
 2. Consider and analyze potential causes and factors that may have contributed to the event. Identify communication methods and other work processes that may have prevented the event, had they been in place; and
 3. Make recommendations regarding policy, procedural, educational or other management or operational changes that might prevent a similar incident from occurring in the future.
- iii. **Annual Review.** On an annual basis, quality management shall:
 1. Convene of meeting of VSH management and other appropriate staff to review and analyze all reports of abuse. The review should consider:
 - a. trends and/or patterns of suspected abuse, neglect or exploitation, including:
 - i. categories of patients that are more likely to be involved in suspected mistreatment

- ii. categories of staff that are more likely to be involved in suspected mistreatment
 - iii. other facts, circumstances or conditions that are similar among the reports of mistreatment
 - b. all ideas and suggestions for policy, procedural, educational or other management or operational changes that might reduce the incidence of suspected abuse in the future
 2. Prepare an annual report for the Executive Director with the findings and recommendations relative to preventing abuse and improving safety at VSH.